

MINUTES
MONTANA HOUSE OF REPRESENTATIVES
61st LEGISLATURE - REGULAR SESSION
COMMITTEE ON JUDICIARY

Call to Order: Chairman Ron Stoker, on February 17, 2009 at 8:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Ron Stoker, Chairman (R)
Rep. Deborah Kottel, Vice Chairman (D)
Rep. Ken Peterson, Vice Chairman (R)
Rep. Arlene Becker (D)
Rep. Gerald Bennett (R)
Rep. Anders Blewett (D)
Rep. Robyn Driscoll (D)
Rep. Bob Ebinger (D)
Rep. Krayton Kerns (R)
Rep. Margaret MacDonald (D)
Rep. Edith (Edie) McClafferty (D)
Rep. Mike Menahan (D)
Rep. Michael More (R)
Rep. Keith Regier (R)
Rep. Diane Sands (D)
Rep. Bob Wagner (R)
Rep. Wendy Warburton (R)

Members Excused: Rep. David Howard (R)

Members Absent: None

Staff Present: Jennifer Eck, Committee Secretary
David Niss, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 362, 2/16/2009; HB 370, 2/16/2009; HB 485, 2/16/2009; HB 490, 2/16/2009; HB 495, 2/16/2009; HB 515, 2/16/2009; HB 533, 2/16/2009

Executive Action: HB 351, HB 470, HB 431, HB 477, HB 252, HB 490, HB 533, HB 495, HB 485

HEARING ON HB 490

Opening Statement by Sponsor:

00:01:09 Rep. Kendall Van Dyk (D), HD 49, opened the hearing on
HB 490, Revise jury selection law.

Proponents' Testimony:

00:03:16 Mary Phippen, Montana Association of Clerks of District
Court
00:06:43 Brends Nordlin, Motor Vehicle Division, Department of
Justice
00:08:51 Carl Seilstad, Fergus County Commissioner

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

00:09:42 Rep. Warburton
00:09:59 Ms. Nordlin
00:11:56 Rep. Warburton
00:12:01 Ms. Nordlin
00:12:36 Rep. Peterson
00:13:08 Ms. Nordlin
00:13:40 Rep. Peterson
00:14:01 Ms. Nordlin
00:14:18 Rep. Peterson
00:14:34 Ms. Nordlin
00:14:42 Rep. Bennett
00:15:00 Ms. Nordlin
00:16:20 Chairman Stoker
00:16:28 Ms. Nordlin
00:16:43 Rep. Wagner
00:16:59 Ms. Nordlin
00:17:17 Rep. Wagner
00:17:47 Ms. Nordlin
00:18:44 Chairman Stoker

Closing by Sponsor:

00:18:56 Rep. Van Dyk
00:19:54 Chairman Stoker

HEARING ON HB 515

Opening Statement by Sponsor:

00:20:08 Rep. Dave McAlpin (D), HD 94, opened the hearing on
HB 515, Revise law on dismissal of abuse and neglect
petitions.

[**EXHIBIT\(juh37a01\)**](#)

Proponents' Testimony:

00:22:04 Ann Gilkey, President, CASA of Montana

Opponents' Testimony: None

Informational Testimony:

00:26:16 Shirley Brown, Child and Family Services

Questions from Committee Members and Responses:

00:27:03 Rep. Peterson

00:27:55 Ms. Gilkey

00:28:13 Rep. Peterson

00:28:19 Ms. Gilkey

00:28:28 Rep. Peterson

Closing by Sponsor:

00:28:36 Rep. McAlpin

00:29:18 Chairman Stoker

HEARING ON HB 533

Opening Statement by Sponsor:

00:29:37 Rep. Janna Taylor (R), HD 11, opened the hearing on
HB 533, Vehicular homicide under the influence- minor
prosecuted as adult.

[**EXHIBIT\(juh37a02\)**](#)

Proponents' Testimony:

00:31:08 Mark Murphy, Chief Criminal Deputy, Yellowstone County
Attorney's Office

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

00:34:00 Rep. Taylor

00:35:28 Chairman Stoker

HEARING ON HB 351

Opening Statement by Sponsor:

00:36:46 Rep. Wendy Warburton (R), HD 34, opened the hearing on
HB 351, Health care freedom of conscience act.

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor: None

HEARING ON HB 370

Opening Statement by Sponsor:

00:37:03 Rep. Jill Cohenour (D), HD 78, opened the hearing on
HB 370, Expand authority of motor carrier services.

[**EXHIBIT\(juh37a03\)**](#)

Proponents' Testimony:

00:40:23 Tim Reardon, Department of Transportation

00:42:30 Chairman Stoker

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

00:42:57 Rep. Becker

00:43:31 Mr. Reardon

00:44:31 Rep. Becker
00:44:46 Mr. Reardon
00:45:19 Rep. Becker
00:45:27 Mr. Reardon
00:45:38 Rep. Becker
00:45:42 Rep. More
00:46:26 Mr. Reardon
00:46:54 Rep. More
00:47:09 Mr. Reardon
00:47:51 Rep. More
00:47:51 Rep. Wagner
00:48:13 Mr. Reardon
00:49:42 Rep. Becker
00:50:14 Mr. Reardon
00:51:43 Rep. Warburton
00:53:00 Mr. Reardon
00:53:23 Chairman Stoker
00:53:30 Mr. Reardon
00:53:44 Chairman Stoker

Closing by Sponsor:

00:53:49 Rep. Cohenour
00:56:18 Chairman Stoker

HEARING ON HB 470

Opening Statement by Sponsor:

00:56:31 Rep. Jill Cohenour (D), HD 78, opened the hearing on
HB 470, Clarify court cost awards for water
proceedings.

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor: None

00:56:44 Chairman Stoker
00:57:02 Recess
01:09:37 Reconvene
01:09:38 Chairman Stoker

HEARING ON HB 485

Opening Statement by Sponsor:

01:09:52 Rep. Elsie Arntzen (R), HD 53, opened the hearing on
HB 485, Revise mobile home court laws regarding eminent
domain.

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony:

01:12:42 Tim Reardon, Department of Transportation

Questions from Committee Members and Responses:

01:15:46 Chairman Stoker
01:15:56 Rep. Peterson
01:16:48 Mr. Reardon
01:16:54 Rep. Peterson
01:17:03 Mr. Reardon
01:17:07 Rep. Peterson
01:17:18 Mr. Reardon
01:17:54 Chairman Stoker
01:18:07 Rep. Arntzen
01:18:50 Rep. Peterson
01:19:28 Rep. Arntzen
01:20:41 Rep. Peterson
01:20:49 Rep. Arntzen
01:21:13 Rep. Wagner
01:21:55 Rep. Arntzen
01:22:13 Mr. Niss
01:22:34 Rep. Arntzen
01:23:23 Rep. Ebinger
01:23:34 Rep. MacDonald
01:23:55 Rep. Arntzen
01:24:48 Rep. Kottel
01:25:21 Rep. Arntzen
01:25:46 Chairman Stoker

Closing by Sponsor:

01:25:53 Rep. Arntzen
01:27:04 Chairman Stoker

HEARING ON HB 495

Opening Statement by Sponsor:

01:27:16 Rep. Elsie Arntzen (R), HD 53, opened the hearing on HB 495, Clarify rights of residents association in mobile home parks.

01:31:50 Chairman Stoker

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

01:32:23 Rep. Becker

01:33:03 Rep. Arntzen

01:35:20 Rep. Becker

01:35:38 Rep. Arntzen

01:37:08 Chairman Stoker

Closing by Sponsor:

01:37:17 Rep. Arntzen

01:38:04 Chairman Stoker

HEARING ON HB 362

Opening Statement by Sponsor:

01:38:39 Rep. Teresa Henry (D), HD 96, opened the hearing on HB 362, Limit liability for practice of disaster medicine.

Proponents' Testimony:

01:46:50 Joe Russell, Flathead City Health Department

[**EXHIBIT\(juh37a04\)**](#)

01:50:54 Steven Zwisler, Registered Nurse, North Valley Hospital

[**EXHIBIT\(juh37a05\)**](#)

01:53:09 Maura Fields, Chief Clinical Officer, North Valley Hospital

[**EXHIBIT\(juh37a06\)**](#)

01:55:45 Gwen Jonas, practicing obstetrician and gynecologist, Kalispell Obstetrics and Gynecology, PLLC

EXHIBIT(juh37a07)

EXHIBIT(juh37a08)

02:00:03 Matt Norby, Firefighter and Paramedic, Bozeman, Montana

02:00:27 Chaz Perkins, Montana State Council of Professional
Firefighters

02:00:52 Rebecca Sturtevant, Montana Nurses Association

02:01:40 Erin MacLean, Montana Medical Association

EXHIBIT(juh37a09)

02:01:45 Rep. Howard joined the meeting.

02:02:20 Bob Olsen, Montana Hospital Association

02:05:40 Ann Brodsky, Chief Legal Counsel, Office of the
Governor

EXHIBIT(juh37a10)

Opponents' Testimony: None

Informational Testimony:

02:09:35 Al Smith, Montana Trial Lawyers Association

Questions from Committee Members and Responses:

02:13:28 Rep. Regier

02:13:39 Ms. Brodsky

02:13:42 Rep. Regier

02:14:14 Ms. Brodsky

02:16:40 Chairman Stoker

02:16:49 Rep. Wagner

02:17:05 Mr. Russell

02:18:09 Rep. Kottel

02:18:20 Ms. Brodsky

02:18:23 Rep. Kottel

02:18:52 Ms. Brodsky

02:18:56 Rep. Kottel

02:19:20 Ms. Brodsky

02:19:26 Rep. Kottel

02:20:21 Ms. Brodsky

02:20:41 Rep. Kottel

02:21:20 Ms. Brodsky

02:22:55 Rep. Kottel

02:23:25 Mr. Smith

02:23:59 Rep. Kottel

02:24:05 Mr. Smith

02:24:12 Rep. Peterson

02:24:58 Mr. Smith

02:25:34 Rep. Peterson

02:25:50 Mr. Smith

02:25:53 Rep. Peterson

02:25:55 Chairman Stoker

02:26:12 Mr. Russell
02:26:13 Chairman Stoker
02:26:42 Mr. Russell
02:26:48 Chairman Stoker
02:26:51 Rep. Kottel
02:27:27 Mr. Russell
02:28:37 Chairman Stoker
02:29:01 Ms. Jonas
02:29:12 Chairman Stoker
02:29:15 Ms. Jonas
02:31:19 Rep. Blewett
02:32:03 Ms. Jonas
02:32:33 Rep. Blewett
02:32:40 Ms. Jonas
02:32:41 Rep. Kottel
02:32:59 Ms. Jonas
02:33:36 Chairman Stoker

Closing by Sponsor:

02:33:48 Rep. Henry

02:38:31 Chairman Stoker
02:39:30 Recess
02:56:06 Reconvene
02:56:07 Chairman Stoker

EXECUTIVE ACTION ON HB 351

02:57:05 **Motion:** Rep. Kottel moved that **HB 351 BE TABLED**.

02:57:07 Chairman Stoker
02:57:23 Rep. MacDonald called the question.

02:57:23 **Vote:** Motion that **HB 351 BE TABLED** carried unanimously by voice vote. Rep. Peterson voted by proxy.

EXECUTIVE ACTION ON HB 470

02:57:38 **Motion/Vote:** Rep. Kottel moved that **HB 470 BE TABLED**.

02:57:40 Chairman Stoker
02:57:42 Rep. Sands called the question.

02:57:47 **Vote:** Motion that **HB 470 BE TABLED** carried unanimously by voice vote. Rep. Peterson voted by proxy.

EXECUTIVE ACTION ON HB 431

02:58:01 **Motion:** Rep. Kottel moved that **HB 431 DO PASS.**

02:58:07 Chairman Stoker

02:58:20 Mr. Niss

EXHIBIT(juh37a11)

02:58:35 **Motion:** Rep. Blewett moved that **HB 431 BE AMENDED.**

Discussion:

02:58:57 Chairman Stoker

02:59:06 Rep. Blewett

03:01:34 Rep. Kottel

03:01:50 Rep. Blewett

03:02:00 Mr. Niss

03:02:06 Rep. Kottel

03:02:08 Rep. Blewett

03:02:12 Chairman Stoker

03:02:20 Rep. Warburton

03:02:52 Chairman Stoker

03:02:57 **Substitute Motion:** Rep. Warburton made a substitute motion to **SEGREGATE THE AMENDMENT.**

03:03:16 **Vote:** Substitute motion that **the AMENDMENT BE SEGREGATED** carried 17-1 by voice vote with Rep. More voting no. Rep. Peterson voted by proxy.

03:03:34 Chairman Stoker

03:03:46 Rep. MacDonald

03:04:34 Rep. Blewett

03:05:15 Rep. Kottel

03:06:02 Rep. MacDonald

03:06:03 Rep. Menahan

03:06:43 Rep. Blewett

03:07:32 Rep. Wagner

03:08:05 Rep. Blewett

03:08:41 Rep. Wagner

03:08:54 Rep. Blewett

03:09:23 Rep. Warburton

03:09:59 Rep. Kottel

03:10:40 Rep. Blewett

03:10:49 Rep. Regier

03:12:07 Rep. Sands called the question.

03:12:12 Rep. Becker

03:12:20 Chairman Stoker

03:12:36 **Vote:** Motion that **HB 431 BE AMENDED** carried 15-3 by roll call vote with Rep. Ebinger, Rep. Wagner, and Rep. Warburton voting no. Rep. Peterson voted by proxy.

03:13:58 **Motion/Vote:** Rep. Kottel moved that **HB 431 BE AMENDED**. Motion carried unanimously by voice vote. Rep. Peterson voted by proxy.

03:14:45 **Motion:** Rep. Kottel moved that **HB 431 DO PASS AS AMENDED**.

Discussion:

03:14:55 Rep. More
03:16:30 Chairman Stoker
03:16:56 Rep. Driscoll
Rep. Peterson joined the meeting.
03:17:45 Chairman Stoker
03:17:49 Rep. Warburton
03:18:32 Rep. Blewett
03:19:57 Rep. Warburton
03:20:48 Rep. Kottel
03:21:38 Rep. Kerns
03:21:55 Mr. Niss
03:22:23 Rep. Kerns
03:22:39 Chairman Stoker
03:22:43 Rep. Menahan
03:23:08 Rep. Driscoll called the question.

03:23:21 **Vote:** Motion that **HB 431 DO PASS AS AMENDED** carried 12-6 by roll call vote with Rep. Kerns, Rep. Bennett, Rep. More, Rep. Wagner, Rep. Warburton, and Rep. Stoker voting no.

03:24:19 Chairman Stoker

EXECUTIVE ACTION ON HB 477

03:24:28 **Motion:** Rep. Peterson moved that **HB 477 DO PASS**.

Discussion:

03:24:40 Chairman Stoker
03:24:45 Rep. Menahan
03:26:08 Rep. Peterson
03:26:38 Rep. Menahan
03:27:01 Rep. Wagner
03:27:39 Rep. Menahan
03:28:41 Rep. Wagner

03:29:01 Rep. Menahan
03:30:14 Rep. Howard
03:30:55 Rep. Sands called the question.

03:31:01 **Vote:** Motion that **HB 477 DO PASS** carried unanimously by voice vote.

EXECUTIVE ACTION ON HB 252

03:31:25 **Motion:** Rep. Peterson moved that **HB 252 DO PASS.**

03:31:38 Chairman Stoker
03:31:58 Rep. Sands called the question.

03:32:03 **Vote:** Motion that **HB 252 DO PASS** tied 9-9 by roll call vote with Rep. Kottel, Rep. Sands, Rep. MacDonald, Rep. Ebinger, Rep. Becker, Rep. Driscoll, Rep. McClafferty, Rep. Blewett, and Rep. Menahan voting aye.

EXECUTIVE ACTION ON HB 490

03:33:03 **Motion:** Rep. Peterson moved that **HB 490 DO PASS.**

03:33:04 Chairman Stoker
03:33:22 Rep. Peterson called the question.

03:33:27 **Vote:** Motion that **HB 490 DO PASS** carried 16-2 by voice vote with Rep. Wagner and Rep. Warburton voting no.

03:33:47 Chairman Stoker

EXECUTIVE ACTION ON HB 533

03:33:53 **Motion:** Rep. Peterson moved that **HB 533 DO PASS.**

Discussion:

03:34:07 Chairman Stoker
03:34:12 Rep. Menahan
03:36:15 Chairman Stoker
03:36:17 Rep. Peterson
03:36:55 Rep. Warburton
03:37:42 Rep. Peterson
03:37:53 Rep. Warburton
03:37:57 Rep. MacDonald
03:39:16 Rep. More
03:39:29 Rep. Menahan
03:41:17 Rep. Bennett

03:41:41 Rep. Wagner

03:43:08 Rep. Sands called the question.

03:43:17 Chairman Stoker

03:43:49 **Vote:** Motion that **HB 533 DO PASS** carried 14-4 by roll call vote with Rep. Kottel, Rep. Wagner, Rep. Blewett, and Rep. Warburton voting no.

EXECUTIVE ACTION ON HB 495

03:44:56 **Motion:** Rep. Peterson moved that **HB 495 DO PASS.**

Discussion:

03:45:02 Chairman Stoker

03:45:06 Rep. Sands called the question.

03:45:09 Rep. Regier

03:45:49 Rep. Peterson

03:46:13 Rep. Kottel

03:47:06 Rep. Peterson called the question.

03:47:09 **Vote:** Motion that **HB 495 DO PASS** carried 13-5 by roll call vote with Rep. Peterson, Rep. Regier, Rep. Howard, Rep. Warburton, and Rep. Stoker voting no.

03:47:58 Chairman Stoker

EXECUTIVE ACTION ON HB 485

03:48:17 Chairman Stoker

03:48:21 **Motion:** Rep. Peterson moved that **HB 485 DO PASS.**

Discussion:

03:48:29 Rep. Peterson

03:49:21 Chairman Stoker

03:49:26 Rep. Peterson called the question.

03:49:29 **Vote:** Motion that **HB 485 DO PASS** carried 16-2 by voice vote with Rep. Driscoll and Rep. MacDonald voting no.

03:50:11 **Motion:** Rep. Kerns moved that **HB 485 BE TABLED AND THE VOTE REVERSED.**

03:50:13 **Vote:** Motion that **HB 485 BE TABLED AND THE VOTE REVERSED** carried unanimously by voice vote.

03:51:35 Chairman Stoker

ADJOURNMENT

03:52:06 Adjournment

Jennifer Eck, Secretary

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Additional Documents:

[EXHIBIT\(juh37a12\)](#)

[EXHIBIT\(juh37a13\)](#)

Additional Documents:

[EXHIBIT\(juh37aad.pdf\)](#)